

I. INTRODUCTION

II. BACKGROUND

III. LEGAL STANDARD: *SUA SPONTE* DISMISSAL

With respect to screening the instant petition, 28 U.S.C. § 2243 provides in relevant part:

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

“[A] district court is authorized to dismiss a [habeas] petition summarily when it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court[.]” *Lonchar v. Thomas*, 517 U.S. 314, 320 (1996).

IV. DISCUSSION

Habeas relief is limited. *See Leamer v. Fauver*, 288 F.3d 532, 540 (3d Cir. 2002). Indeed, the Third Circuit has stated the following:

[W]henever the challenge ultimately attacks the ‘core of habeas’ – the validity of the continued conviction or the fact or length of the sentence – a challenge, however denominated and regardless of the relief sought, must be brought by way of a habeas corpus petition. Conversely, when the challenge is to a condition of confinement such that a finding in plaintiff’s favor would not alter his sentence or undo his conviction, an action under § 1983 is appropriate.

Leamer, 288 F.3d at 542. In this case, a ruling in petitioner’s favor would not affect the fact or duration of his conviction or sentence. Accordingly, his remedy lies not in bringing a habeas action such as this, but rather, as a civil rights suit pursuant to 42 U.S.C. § 1983. *See, e.g., McCall v. Ebbert*, 384 F. App’x 55, 57-58 (3d Cir. 2010) (habeas petition challenging security classification is appropriately brought in a civil rights action not a habeas petition); *Ideen v. Beard*, No. 08-0151, 2008 WL 2944619, at *2 (W.D. Pa. July 31, 2008) (dismissing habeas petition where state prisoner requested that his custody level be restored). Therefore, this Court will summarily dismiss petitioner’s § 2241 habeas petition.

V. CONCLUSION

For the foregoing reasons, the habeas petition will be summarily dismissed. An appropriate order will be entered.

DATED: March 28, 2016

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge